

REMARKS

Claims 1-3, 6-12, 18-23, 25-35, 38-53, 55, 56, 69, and 70 were presented for examination.

Claims 1-3, 6-12, 18-23, 25-35, 38-53, 55, 56, 69, and 70 were rejected.

Applicant is hereby amending claims 1, 7, 12, 19, 26, 27, 31, 44, 45 and 56 to more distinctly claim their invention and to correct typographical errors. Applicant is cancelling claims 35, 38-39, 42, 50-51 and 70. Applicant is adding new claims 71-81.

Applicant thanks the Examiner for his time in conducting a telephone interview on July 29, 2005. Applicant believes that the time was spent effectively and significant progress was made. During the telephone interview, Applicant's representative Kehl Sink, Applicant's attorney Michael Farn, and the Examiner discussed claims 1 and 31 in relation to Black '740. The Examiner explained his view that since Black '740 asserts that it is able to maintain a tight focus at the surface of the skin, the scanning described by Black '740 must be "three-dimensional" since the skin is non-planar. In other words, the Examiner interpreted the term "three-dimensional scanning" to include scanning over a non-planar surface of the skin. The Examiner and Applicant agreed that even if scanning over a non-planar surface is described in Black '740, Black '740 does not teach or suggest three-dimensional scanning of a volume (e.g., scanning throughout a volume of skin rather than scanning just along the surface of the skin). Furthermore, agreement was reached that if the pending claims were amended to recite three-dimensional scanning of a volume, they would be allowable over the cited references. The issues discussed during the interview are summarized in further detail below.

In this amendment, Applicant is amending independent claims 1, 31, and 45 to more clearly recite three-dimensional scanning of a volume. Therefore, reconsideration of this application and allowance of all pending claims, as amended, are hereby respectfully requested.

Black '740 does not teach three-dimensional scanning of a volume

The Office Action rejected pending claims 1-3, 6-12, 18-23, 25-34, 40, 41, 43-49, 52, 53, 55, 56 and 69 under 35 U.S.C. §103(a) as being obvious in light of Black '740 in combination with various other references. Applicant is amending the independent claims 1, 31 and 45 to add limitations directed to three-dimensional scanning of a volume. Agreement was reached in the interview that Black '740 does not teach or suggest three-dimensional scanning of a volume. Hence, Applicant respectfully submits that the pending claims are patentable over Black '740 and the other cited references.

More specifically, Applicant is amending the independent claims 1, 31 and 45 to recite “a three-dimensional scanning pattern within a volume” of either biological tissue or the substance being treated (emphasis added), thus implementing the three-dimensional volume scanning discussed during the interview. Support for this amendment can be found, for example, on p. 21 lines 12-et seq., which discusses the combination of a linear scanning means for area scanning with an adjustable two-mirror assembly for depth scanning (i.e., the direction into the volume).

As agreed in the interview, Black '740 does not teach or suggest three-dimensional scanning of a volume. At best, Black '740 discloses two-dimensional scanning over a non-planar surface (and even that is debatable since all of the examples in Black '740 appear to discuss only x-y scanning and show only planar surfaces). Applicant could not find in Black '740 any explicit discussion of scanning in the depth (z) direction. The remaining references are cited merely to supplement Black '740 with respect to the dependent claims. None are characterized in the Office Action as teaching or suggesting three-dimensional scanning of a volume.

Therefore, Applicant respectfully submits that the pending claims are patentable over Black '740 and the other cited references.

New Claims

New claims 71-77 depend from the existing independent claims 1, 31 or 45. New independent claim 78 has limitations similar to the three-dimensional scanning limitation discussed above. New claims 79-81 depend from claim 78. Therefore, Applicant respectfully submits that these new claims are also patentable over the cited references.

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Closing

Based on the comments above, it is believed that no further issues remain with this application that would prevent patentability. Applicant believes that the application is in condition for allowance of all claims herein, claims 1-3, 6-12, 18-23, 25-34, 40, 41, 43-49, 52, 53, 55, 56, 69 and 71-81 as amended, and therefore a Notice of Allowance is respectfully requested. If the Examiner believes that for any reason direct contact with Applicants' attorney would help advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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